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this case the court held that a vehicle is subject to condemnation only, when in addition to conveying such liquor, it is used for the purpose of transporting such liquor; and that it is necessary in a particular case to ascertain the circumstances surrounding the particular transportation of liquor, and to determine therefrom whether or not the vehicle at the time is being used for the purpose of transporting such liquor. The evidence in this case was that the owner of an automobile was travelling therein along a public road, having in his pocket a quart bottle containing whiskey, there being no other whiskey in the car. Such evidence was held, in the absence of other evidence, either direct or circumstantial, that he was using the automobile on the particular occasion for the purpose of conveying the liquor, insufficient to establish as a matter of law that the car was being used by the owner in conveying the liquor, and that it was therefore subject to condemnation. The theory upon which the decision seems to rest is that where such a small insignificant quantity is being transported as not to require the use of an automobile for the purpose of its conveyance, its mere possession by the person travelling in the automobile does not, without more, demand or compel the inference that the automobile was being used in conveying such liquor. But the court was careful to point out that the mere fact that the liquor actually transported in the vehicle was on the person of the occupant of the vehicle is not the factor determining that the vehicle was not used in conveying the liquor. The court approved the earlier case of *Crapp v. State*, 23 Ga. App. 257, 98 S. E. 174 (1919), where it was held that where, with the knowledge of the owner, a car was used in carrying liquor in violation of the terms of the prohibition law, the owner would not be excused from condemnation of his car by reason of the fact that the vehicle was not then and there being used for the primary purpose of conveying liquor, but that the liquor was being carried incidentally and only because the vehicle was at the time being used for another and different purpose. In the earlier case the defendant had a quart of whiskey in a grip in his automobile, and was travelling along the road for the purpose of going to visit some of his people, having the whiskey along with him for his own use, and not making the trip for the purpose of carrying the whiskey anywhere.

See 8 VA. LAW REV. 59 for a discussion of condemnation of vehicles transporting liquor.

SPECIFIC PERFORMANCE—ELEVATOR SERVICE—DAMAGES MAY BE AWARDED IN LIEU OF PERFORMANCE.—The plaintiff entered into a contract with the defendant whereby the latter agreed to erect and operate an elevator in the defendant's building for the common use of both parties. The defendant failed to furnish the elevator service under the provisions of the contract. The plaintiff sought a decree of specific performance to compel the defendant to furnish the elevator service according to the terms of the contract. *Held*, plaintiff may recover damages in lieu of specific performance. *Nakdimen v. Atkinson Improvement Co.* (Ark.), 233 S. W. 694 (1921).

The first principles of the remedy of specific performance, it must be remembered, is that the court exercises discretionary power in granting or refusing a decree for specific performance. Courts of equity go beyond the equities of the case in refusing specific performance of a

contract where there is no practical method by which the court may supervise, or determine, the faithful performance of the contract. Thus, equity will not grant specific performance of a contract for personal services. *Marble Co. v. Ripley*, 10 Wall. (U. S.) 339 (1870); *Campbell v. Rust*, 85 Va. 653, 8 S. E. 664 (1889). *A fortiori*, will equity refuse specific performance where the contract requires continuous services involving skill and experience, or cultivated judgment. *Marble Co. v. Ripley*, *supra*; *Electric Lighting Co. v. Mobile, etc., R. Co.*, 109 Ala. 190, 19 So. 721, 55 Am. St. Rep. 927 (1896).

It is obvious that specific performance may not be granted by mandatory injunction in the above classes of cases; for the same extent and degree of supervision would be required on the part of the court as would be required by a decree of specific performance. But where performance of the contract will continue by a single act on the part of the party refusing to perform, a mandatory injunction will issue to compel the defendant to execute that act. Thus, where a public utility company cuts off electric current in violation of its contract with an individual, a mandatory injunction will issue to compel the defendant to turn the current on again. *Warmack v. Major Stave Co.*, 132 Ark. 173, 200 S. W. 799 (1918). And specific performance will be granted to compel a vendee to construct a pipe line from a clear stream on the vendee's land to supply fresh water for the vendor's cattle, where the vendee has covenanted to construct such a pipe line in the event that the former supply of fresh water was adulterated by the erection of an ore washer on the land bought from the vendor. *Grubb v. Sharkey*, 90 Va. 831, 20 S. E. 784 (1894).

It is well settled that when equity takes jurisdiction, the court will give complete relief even though this necessitates that equity administer purely legal relief ancillary to the equitable remedy granted. In the instant case the ground for equitable relief failed and the chancery court retained the bill and awarded purely legal relief in the form of damages for breach of the contract. This decision is in accord with the weight of authority. The rule is that if the plaintiff has made *bona fide* allegations of peculiar circumstances giving equity jurisdiction, then equity may retain the case and give complete legal relief, even though the proof does not entitle the plaintiff to any equitable remedy. *Campbell v. Rust* *supra*; *Moubray v. Dieckman*, 9 App. Div. 120, 41 N. Y. S. 82 (1896); LILE, NOTES ON EQUITY JURISPRUDENCE, (new ed.) 14.

This rule seems sound on principle, since the plaintiff gains admittance into equity in absolute good faith and since it is a well established principle that equity will give complete relief, including legal relief, when the equitable remedy granted is inadequate to give complete relief. No reason is perceived to distinguish between the administration of legal remedies in cases where the equitable relief falls short of complete relief and in cases where the equities favor equitable relief, as in the instant case; but where because of inability of the court to enforce and supervise its mandates, equitable relief must be refused. The equities in the latter case are certainly not negated by the court's inability to enforce a remedy that it would otherwise decree.